



40 CFR Part 271

[EPA-R01-RCRA-2020-0175; FRL 8892-01-R1]

Massachusetts: Final Authorization of State Hazardous Waste Management Program

Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Massachusetts has applied to the United States Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed Massachusetts' application, and has determined that these revisions satisfy all requirements needed to qualify for final authorization. Therefore, we are taking direct final action to authorize the State's changes.

In the "Proposed Rules" section of this issue of the *Federal Register*, the EPA is also publishing a separate document that serves as the proposal to authorize these revisions. Unless the EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Massachusetts' revisions to its hazardous waste program will take effect.

DATES: This final authorization is effective on [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the EPA receives adverse written comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives any such comment, the EPA will publish a timely withdrawal of this direct final rule in the *Federal Register* and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. **EPA-R01-RCRA-2020-0175**, at <https://www.regulations.gov/>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any

information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sara Kinslow, RCRA Waste Management, UST, and Pesticides Section; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07-1), Boston, MA 02109-3912; phone: 617-918-1648; e-mail: kinslow.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time that they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in Massachusetts, including the

issuance of new permits implementing those requirements, until Massachusetts is granted authorization to do so.

B. What decisions has the EPA made in this rule?

On August 13, 2021, Massachusetts submitted a complete program revision application seeking authorization of revisions to its hazardous waste program. The EPA concludes that Massachusetts' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA Section 3006(b), 42 U.S.C 6926(b), and 40 CFR Part 271. Therefore, the EPA grants final authorization to Massachusetts to operate its hazardous waste program with the revisions described in its authorization application, and as listed below in Section G of this document.

The Massachusetts Department of Environmental Protection (MassDEP) has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of HSWA, as discussed above.

C. What is the effect of today's authorization decision?

This decision serves to authorize Massachusetts for the revisions to its authorized hazardous waste program described in its authorization application. These changes will become part of the authorized State hazardous waste program and will therefore be Federally enforceable. Massachusetts will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA would maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses and reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action will not impose additional requirements on the regulated community because

the regulations for which the EPA is authorizing Massachusetts are already effective under state law and are not changed by today's action.

D. Why wasn't there a proposed rule before today's rule?

Along with this direct final rule, the EPA is publishing a separate document in the "Proposed Rules" section of today's *Federal Register* that serves as the proposal to authorize Massachusetts' program revisions. The EPA did not publish a proposal before today's rule because the EPA views this as a routine program change and does not expect comments that oppose this approval. The EPA is providing an opportunity for public comment now, as described in Section E of this document.

E. What happens if the EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization, the EPA will withdraw today's direct final rule by publishing a document in the *Federal Register* before the rule becomes effective. The EPA will base any further decision on the authorization of Massachusetts' program revisions on the proposal mentioned in the previous section, after considering all comments received during the comment period. The EPA will then address all such comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If the EPA receives comments that oppose only the authorization of a particular revision to Massachusetts' hazardous waste program, the EPA will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The *Federal Register* withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Massachusetts previously been authorized for?

The Commonwealth of Massachusetts initially received final authorization effective February 7, 1985 (50 FR 3344, January 24, 1985) to implement its base hazardous waste management program. The EPA granted authorization for revisions to Massachusetts' regulatory

program on the following dates: September 30, 1998, effective November 30, 1998 (63 FR 52180); October 12, 1999, effective immediately (64 FR 55153); March 12, 2004, effective immediately (69 FR 11801); January 31, 2008, effective March 31, 2008 (73 FR 5753); and June 23, 2010, effective August 23, 2010 (75 FR 35660). Additionally, on November 15, 2000, the EPA granted interim authorization for Massachusetts to regulate Cathode Ray Tubes under the Toxicity Characteristics rule through January 1, 2003, effective immediately (65 FR 68915). This interim authorization was subsequently extended to run through January 1, 2006 (67 FR 66338, October 31, 2002) which was then further extended until January 1, 2011 (70 FR 69900, November 18, 2005).

G. What revisions is the EPA proposing with this proposed action?

1. State-initiated revisions

On August 13, 2021, Massachusetts submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Massachusetts seeks authority to administer the Federal requirements that are listed in Table 1 below, including certain waste listings that were promulgated under HSWA authority. This table lists Massachusetts' analogous requirements that are being recognized as no less stringent than the analogous Federal requirements.

Massachusetts' regulatory references are to Title 310 of Code of Massachusetts Regulations (CMR), Chapter 30, as amended effective November 15, 2019. Massachusetts' statutory authority for its hazardous waste program is based on the Massachusetts Hazardous Waste Management Act of 1979 (Massachusetts General Laws Chapter 21C).

The EPA proposes to determine, subject to public review and comment, that Massachusetts' hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, the EPA is proposing to authorize Massachusetts for the following program revisions:

Table 1. Massachusetts' Analogs to the Federal Requirements

Federal Requirement	Federal Register Page and Date	Analogous State Authority
Checklist (CL) 82: Wood Preserving Listings	55 FR 50450; December 6, 1990	Title 310 Code of Massachusetts Regulations (310 CMR) 30.131, 30.160, 30.162, and 30.099(6)(n) (More stringent provisions: 30.010 and 30.200)
CL 92: Wood Preserving Listings; Technical Corrections	56 FR 30192; July 1, 1991	310 CMR 30.099(6)(n) (More stringent provisions: 30.010 and 30.200)
CL 110: Coke By-Product Listings	57 FR 37284; August 18, 1992	310 CMR 30.132 and 30.160 (More stringent provisions: 30.104(2)(b) and 30.200)
CL 120: Wood Preserving; Amendments to Listings and Technical Requirements	57 FR 61492; December 24, 1992	310 CMR 30.131 and 30.099(6)(n) (More stringent provisions: 30.010)
CL 140: Carbamate Production Listings	60 FR 7824; February 9, 1995 as amended April 17, 1995 (60 FR 19165) and May 12, 1995 (60 FR 25619)	310 CMR 30.132, 30.133, 30.136, 30.160, and 30.162 (More stringent provisions: 30.102(2)(c)2 and 30.102(2)(d))
CL 169: Petroleum Refining Process Listings	63 FR 42110; August 6, 1998, as amended October 9, 1998 (63 FR 54356)	310 CMR 30.102(2)(c)2.b.ii, 30.131, 30.132, and 30.160 (More stringent provisions: 30.102(2)(d), 30.200, and 30.250)
CL 189: Chlorinated Aliphatics Production Listings	65 FR 67067; November 8, 2000	310 CMR 30.132 and 30.160
CL 195: Inorganic Chemical Manufacturing Listings	66 FR 58257; November 20, 2001, as amended April 9, 2002 (67 FR 17119)	310 CMR 30.132 and 30.160 (More stringent provisions: 30.102(2)(d))
CL 209: Universal Waste Rule; Provisions for Mercury Containing Equipment	70 FR 45508; August 5, 2005	310 CMR 30.010, 30.099(1), 30.143(2), 30.501(2), 30.750(3)(d), 30.801(14), 30.1001(1), 30.1010, 30.1020(3) and (4), 30.1034(3) and (4), 30.1043(2), and 30.1044(3) and (4)

Federal Requirement	Federal Register Page and Date	Analogous State Authority
CL 215: Cathode Ray Tube Exclusion	71 FR 42927; July 28, 2006	310 CMR 30.010, 30.104(3)(h), and 30.202(5)(g) (More stringent provisions: 30.104(3)(h)1.a and 30.104(3)(h)2.b.iii)
CL 220: Academic Laboratories Generator Standards	73 FR 72911; December 1, 2008	310 CMR 30.010, 30.351(2)(b), and 30.354 (More stringent provisions: 30.354(3)(d) and (e), 30.354(6)(a)1.d and e, 30.354(9), and 30.354(10)(d))
CL 226: Corrections to the Academic Laboratories Generator Standards	75 FR 79304; December 20, 2010	310 CMR 30.010 and 30.354
CL 229: Conditional Exclusions for Solvent Contaminated Wipes	78 FR 46447; July 31, 2013	310 CMR 30.010 and 30.104(3)
CL 232: Revisions to the Export Provisions of the Cathode Ray Tube Rule	79 FR 36220; June 26, 2014	310 CMR 30.010, 30.104(3)(h), and 30.202(5)(g)

Massachusetts has already received authorization for some of the checklists in Table 1 to the extent that they contain provisions related to the Land Disposal Restrictions (LDR) program. Regulated entities in Massachusetts that generate these HSWA wastes must comply with the State LDR requirements for these wastes.

2. EPA-initiated revisions

The EPA is also clarifying, subject to public review and comment, the scope of Massachusetts' authorized program by explicitly identifying rule checklists which pertain to provisions that have long been part of Massachusetts' authorized program, but which were inadvertently omitted from past authorizations. These checklists include:

- CL 2: Permit Rules: Settlement Agreement (48 FR 39611, September 1, 1983);
- CL 6: Permit Rules: Settlement Agreement (49 FR 17716, April 24, 1984);
- CL 17H: HSWA Codification Rule: Double Liners (50 FR 28702, July 15, 1985);

- CL 17I: HSWA Codification Rule: Ground-water Monitoring (50 FR 28702, July 15, 1985);
- CL 17P: HSWA Codification Rule: Interim Status (50 FR 28702, July 15, 1985);
- CL 17Q: HSWA Codification Rule: Research and Development Permits (50 FR 28702, July 15, 1985);
- CL 30: Biennial Report Correction (51 FR 28556, August 8, 1986);
- CL 36: Closure/Post-closure Care for Interim Status Surface Impoundments (52 FR 8704, March 19, 1987);
- CL 38: Amendments to Part B Information Requirements for Land Disposal Facilities (52 FR 23447, June 22, 1987 as amended September 9, 1987 at 52 FR 33936);
- CL 54: Permit Modification for Hazardous Waste Management Facilities (53 FR 37912, September 28, 1988 as amended October 24, 1988 at 53 FR 41649);
- CL 55: Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities (53 FR 39720, October 11, 1988); and
- CL 61: Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modification of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting (54 FR 9596, March 7, 1989).

In the process of seeking authorization for revisions to the State authorized program, Massachusetts has not always used individual rule checklists to demonstrate the equivalency of its State regulations to the Federal program. In addition, Massachusetts has sometimes pursued authorization for only some provisions of an individual rule checklist. As a result, past authorization *Federal Register* notices may have inadvertently omitted some rule checklists/provisions included in the EPA's authorization decision for State program revisions. The EPA is correcting these omissions with this authorization. The provisions in the checklists cited above continue to be part of Massachusetts' authorized program.

Finally, there are several Federal rules that have been vacated, withdrawn, or superseded. As a result, authorization of these rules may be moot. However, for purposes of completeness, these rule checklists are included, below, with an explanation as to the rule's status in Massachusetts. These checklists include:

- CL 153: Conditionally Exempt Small Quantity Generator Disposal Options (61 FR 34252, July 1, 1996) – As the preamble to this rule discussed, the EPA believes that States which do not allow the disposal of wastes generated by CESQGs into Subtitle D landfills under their existing authorized Subtitle C program would not be required to revise their programs and obtain authorization for this rule, as they would continue to be more stringent. The EPA encouraged states to inform their regional office that for this final rule, they are not required to submit a revision application. Massachusetts does not allow wastes generated by CESQGs to be disposed in Subtitle D landfills. Note that these federal provisions were subsequently superseded by the Hazardous Waste Generator Improvements Rule (81 FR 85732, November 28, 2016).
- CL 199: Vacatur of Mineral Processing Spent Materials Being Reclaimed (67 FR 11251, March 13, 2002) – This rule vacated certain provisions from CL 167D: Mineral Processing Secondary Materials Exclusion (63 FR 28556; May 26, 1998). Massachusetts did not adopt the underlying provisions from CL 167D.
- CL 216: Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthetic Gas (73 FR 57, January 2, 2008), CL 221: Expansion of RCRA Comparable Fuel Exclusion (73 FR 77954, December 19, 2008), CL 224: Withdrawal of the Emission Comparable Fuel Exclusion (75 FR 33712, June 15, 2010), and CL 234: Vacatur of the Comparable Fuels Rule and the Gasification Rule (80 FR 18777, April 8, 2015) – CLs 216, 221, and 224 have been vacated. CL 234 implements the vacatur of these provisions. Massachusetts did not adopt the exclusions contained in CLs 216, 221, or 224.

Massachusetts' authorized program continues to be equivalent to and no less stringent than the Federal program without having to make any conforming changes pursuant to these rule checklists, as explained above.

H. Where are the revised State rules different from the Federal rules?

1. Massachusetts requirements that are broader in scope

Massachusetts' hazardous waste program contains certain provisions that are broader than the scope of the Federal program. These broader in scope provisions are not part of the program the EPA is proposing to authorize. The EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by State law. Examples of broader in scope provisions of Massachusetts' program include, but are not limited to, the following:

(a) In 1996, the EPA vacated the K156, K157, and K158 waste listings to the extent that they encompass wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate (IPBC). 310 CMR 30.132 does not exclude such wastes from coverage under Massachusetts' analogous listings. State-only wastes such as K156, K157, and K158 wastes from the manufacture of IPBC make Massachusetts' universe of regulated hazardous waste larger than the EPA's and, therefore, broader in scope.

2. Massachusetts requirements that are more stringent than the Federal program

Massachusetts' hazardous waste program contains several provisions that are more stringent than the Federal RCRA program. More stringent provisions are part of a Federally authorized program and are, therefore, Federally-enforceable. Under this action, the EPA would authorize every provision in Massachusetts' program that is more stringent. Every provision of the proposed program revision that is more stringent is noted in Table 1. They include, but are not limited to, the following:

(a) The EPA conditionally excludes certain listed wastes that are reclaimed, reused, or otherwise recycled from the definition of solid waste. In 40 CFR 261.4(a)(9), (10), and (19), the

EPA conditionally excludes any spent wood preserving solutions and wastewaters that are reclaimed and reused, wastes from coke by-product processes that are destined for recycling, and spent caustic solutions generated by refineries that are used as feedstock, respectively.

Massachusetts has not adopted these exclusions for recycled listed wastes. Instead, 310 CMR 30.104(2)(b) excludes recyclable material that is reclaimed in compliance with the requirements of 310 CMR 30.200 from hazardous waste regulation. The provisions of 310 CMR 30.200, which include but are not limited to obtaining a permit and managing recyclable material in compliance with that permit, are more stringent than the conditions set forth by the EPA at 40 CFR 261.4(a).

(b) At 40 CFR 261.4(a)(12) and (18) and 261.6(a)(3)(iii) and (iv), the EPA conditionally excludes certain recovered oil and oil-bearing hazardous secondary materials that are to be refined, re-refined, or burned as fuels from regulation as hazardous waste. Certain oil-bearing recyclable materials are subject to 40 CFR 279 standards for used oil management.

Massachusetts has not adopted the EPA's used oil requirements, nor the EPA's exclusions for management of oil-bearing recyclable materials. Instead, such waste is subject to 310 CMR 30.200 and specifically the waste oil management standards in 310 CMR 30.250, which are more stringent than 40 CFR 279.

(c) In the definition of "drip pad" at 310 CMR 30.010, Massachusetts explicitly restricts use of drip pads to treatment, storage, and disposal facilities that are in interim status.

Massachusetts does not permit generators or licensed treatment, storage, and disposal facilities to use drip pads to convey treated wood drippage, precipitation, and/or surface water run-off from an associated collection system.

(d) If wood preserving plants cease or do not initiate use of chlorophenolic preservatives, the EPA allows wastes from such processes to be exempt from the F032 listing once several cleaning, management, and documentation conditions have been met (40 CFR 261.35).

Massachusetts has not adopted the conditions included in 40 CFR 261.35 and regulates all such

waste as F032 listed hazardous waste.

(e) The EPA excludes mixtures of non-hazardous waste with certain listed hazardous wastes from the definition of hazardous waste if certain conditions are met. The types of mixtures and associated conditions for exclusion are listed in 40 CFR 261.3(a)(2)(iv). 310 CMR 30.102(2)(c) incorporates many of these mixtures and associated conditions for exclusion by reference. However, Massachusetts has not adopted 40 CFR 261.3(a)(2)(iv)(F) and (G), relating to mixtures of non-hazardous waste with wastewaters from the production or treatment of carbamates and carbamoyl oximes (namely, K156 and K157 listed wastes). Mixtures of non-hazardous wastes with K156 and/or K157 listed wastes must be managed as hazardous wastes in Massachusetts.

(f) The EPA conditionally excludes certain wastes generated from the treatment, storage or disposal of listed wastes from hazardous waste regulation. In 40 CFR 261.3(c)(2)(ii)(D), the EPA conditionally excludes biological treatment sludge from the treatment of K156 and K157 wastes. In 40 CFR 261.3(c)(2)(ii)(E), the EPA conditionally excludes catalyst inert support media separated from K171 and K172 wastes. In 40 CFR 261.4(b)(15), the EPA conditionally excludes leachate or gas condensate collected in landfills where certain inorganic chemical manufacturing wastes (namely, K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181) have been disposed. Massachusetts, at 310 CMR 30.102(d), regulates all waste generated from the treatment, storage, disposal, or use of a hazardous waste as hazardous waste, including any sludge, spill residue, ash emission control dust, and leachate.

(g) The Massachusetts provisions for used, broken cathode ray tubes (CRTs) and processed CRT glass undergoing recycling are more stringent than the Federal requirements in two regards. First, 310 CMR 30.104(3)(h)1.a requires that all used, broken CRTs be containerized, rather than providing an option to store used, broken CRTs in a building as provided at 40 CFR 261.39(a)(1). Second, at 310 CMR 30.104(3)(h)2.b.iii, Massachusetts requires companies that conduct CRT processing to submit a one-time notification to MassDEP

prior to commencing CRT processing. The Federal CRT recycling provisions do not require such a notification.

(h) Several of Massachusetts' provisions at 310 CMR 30.354, alternative requirements for unwanted materials generated by academic laboratories, are more stringent than the Federal analogous requirements. First, teaching hospitals and nonprofit research institutes that are not owned by a college or university must keep their written formal affiliation agreements on file with the Director of Laboratories for as long as the laboratories are subject to alternative requirements (310 CMR 30.354(3)(d) and (e), respectively). The EPA does not specify where or with whom such affiliation agreements must be filed or maintained. Second, the container labeling requirements at 40 CFR 262.206(a)(2) do not require that date the unwanted material began accumulating and other information sufficient to allow trained professionals to identify the materials be affixed or attached to the container. Massachusetts does require this information be affixed or attached to the container, as described at 310 CMR 30.354(6)(a)1. Finally, although the Federal provisions have less stringent requirements for where and when Very Small Quantity Generators (VSQGs) must make hazardous waste determinations, as compared to Small and Large Quantity Generators (SQGs and LQGs, respectively), 310 CMR 30.354(10) requires VSQGs to comply with the same standards as SQGs and LQGs when making a hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.

(i) Massachusetts has prohibited VSQGs from acquiring and utilizing drum-top crushers to crush mercury-containing lamps after the effective date of the revised regulations, unless they first obtain a license to treat hazardous waste. This requirement, at 310 CMR 30.353(10), is more stringent than the federal provisions, which do not restrict or require permits for treatment by VSQGs.

I. Who handles permits after the authorization takes effect?

Massachusetts will continue to issue permits covering all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer and

enforce any RCRA and HSWA permits or portions of permits that the EPA issued prior to the effective date of this authorization in accordance with the signed Memorandum of Agreement, dated September 30, 2021, which is included with this program revision application. Until such time as formal transfer of the EPA permit responsibility to Massachusetts occurs and the EPA terminates its permit, the EPA and Massachusetts agree to coordinate the administration of permits in order to maintain consistency. The EPA will not issue any new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Massachusetts is not yet authorized.

J. How would this action affect Indian Country (18 U.S.C. 115) in Massachusetts?

Massachusetts has not applied for and is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the land of the Wampanoag tribe. Therefore, this action has no effect on Indian country. The EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

K. What is codification and will the EPA codify Massachusetts' hazardous waste program as authorized in this rule?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of Massachusetts' revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart W for the authorization of Massachusetts' program at a later date.

L. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA section

3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as today's authorization of Massachusetts' revised hazardous waste program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise

satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in taking this action, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this action in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). “Burden” is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, this rule is not subject to Executive Order 12898.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Deb Szaro
Acting Regional Administrator,
U.S. EPA Region I.

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